

JURY TASK FORCE

LIMITED SCOPE PEREMPTORY CHALLENGE WORKGROUP

July 23, 2021

SUMMARY OF TASK

The workgroup was tasked with the following question: Should the reduction in peremptory strikes (side note: not all were reduced to two, some limited jurisdiction courts were reduced to 1) authorized by Administrative Order 2021-77 be continued for three years?

No. The working group recommends that:

(1) the reduction in peremptory strikes authorized by AO 2021-77 be continued for one year through December 31, 2022 to address trial backlogs; and

(2) the administrative order extending the limit on peremptory strikes be modified to give the presiding superior court judge in each county discretion to reinstate the peremptory strikes authorized by existing procedural rules for peremptory strikes (including Rule 18.4(c), Rules of Criminal Procedure; Rule 47(e), Rules of Civil Procedure; Rule 134(a)(1), Justice Court Rules of Civil Procedure; and Rule 12, Rules of Procedure for Eviction Actions).

JURY TASK FORCE

SOURCE LISTS AND RESPONSE RATES WORK GROUP SUBCOMMITTEE

July 23, 2021

SUMMARY OF ISSUES

1. Generally Accepted Recommendations That Warrant No Further Discussion

- **Move from 2-step to 1-step summons.** The 2-step summoning process first qualifies prospective jurors (through a separate qualification questionnaire, which determines whether the prospective jurors meet the statutory requirements for jury service), then issues summonses to those who are qualified to report for jury service. The 1-step summoning process combines the qualification and summoning steps into one. A 2-step process does not reduce the number of people reporting to court and each additional mailing increases the risk of losing people along the way. Neither process considers hardship.
 - **Recommend all courts move from 2-step to 1-step summons process.**
 - **Recommend that the transition be in a phased approach that includes assistance from the National Center of State Courts.**

2. Issues Requiring Additional Discussion & Evaluation

- **Meet and greet.** The sub-committee sees a benefit to having a presiding judge or designee meet potential jurors in person to generally outline the process for jurors before jury selection begins. The workgroup, taking into account the feedback of the Task Force as a whole, recommends that:
 - Where the presiding judge is not available to do a brief greeting to jurors in the jury assembly room, the presiding judge designate another judge, hearing officer or court administrator; and
 - The greeting be a generalized statement that does not reference any specific case or individual judge's jury selection practices.
- **"Struck" voir dire.** Whether to encourage counties to move away from the strike and replace method of jury selection and move towards a struck method of voir dire that allows every juror to meaningfully participate requires additional discussion. "Struck" voir dire can include a recommendation that

courts use smaller panels of jurors during voir dire. The “struck” method engages all jurors and addresses concerns that jurors with numbers at the end of the panel are not truly paying attention to questioning. The subcommittee anticipates some resistance to using the “struck” method of voir dire and therefore recommends that the recommendation be just that, an statement that encourages courts to use the “struck” method wherever feasible with a list of the benefits of using this practice over strike and replace.

- **Evaluate exemption period statutes that apply only to empaneled jurors or request AOC to publish guidance or directives on how to treat jurors who appear for voir dire but are not selected.** The workgroup continued its analysis of A.R.S. §§ 21-332 (juror term of service) and -335 (frequency of service) in light of reported concerns over exhaustion of master juror lists and application of 1 to 2 year exemptions for those that meet the terms of service under § 21-332. The following points were determined:
 - **§ 21-335** requires that a juror who was “summonsed and selected to serve” (as juror or alternate) is exempt for service for 2 years.
 - **§ 21-332** addresses the circumstances under which a juror who is summonsed and reports for service meets that service obligation and is to be released from service under the current summons.
 - **Many courts** apply a 1 to 2 year exemption from future service for those jurors who were summoned, reported, and met any of the terms of §§ 21-335 AND -332 even though § 21-332 does not require such an exemption. This is a policy decision if each court.
 - **The workgroup is considering recommending that the AOC issue guidance:**
 - Clarifying for courts that the 2-year exemption under § 21-335 is not applicable, by law, to those that fall within § 21-332
 - that courts that have adopted a local policy to apply some type of exemption from future service to persons meeting § 21-332(2) – (5) should regularly evaluate whether their master juror list is being exhausted unnecessarily due to application of a 1-2 year exemption to persons who do not meet the requirements of § 21-335 (summonsed and served on a jury)
 - That guidance advises courts to reduce or end application of any exemption period when master jury lists are being exhausted prior to the biannual refresh of the list.

JURY TASK FORCE

JUROR PAY WORK GROUP SUBCOMMITTEE

July 23, 2021

SUMMARY OF ISSUES

Previously the Task Force voted in support of a recommendation seeking a legislative proposal to raise the daily rate of pay for jurors from \$12 to \$50. The work group, after further discussion of other related topics of juror pay, seeks reconsideration of the daily pay rate change and presents a broader package of juror pay-related recommendations.

Generally Accepted Recommendations That Warrant No Further Discussion

- The workgroup recommends pursuit of legislation to have employers pay employees their wages up to the third day of service. Legislation should include a tax credit for employers. Due to the hardship very small employers might face by this requirement, the workgroup recommends that employers of 10 or less be able to choose whether to pay employees, and if so ensure they receive the same tax credit.
- The workgroup requests the Task Force to reconsider the topic of change to the statutory daily rate of pay. Previously the task force voted in favor of seeking legislation to change the statutory daily rate of pay from \$12 to \$50. After further consideration of the complete package of juror pay recommendations, the workgroup seeks the task force's consideration of a change to the daily rate of pay to be "an amount four times the statutory minimum wage."
- A.R.S. § 21-221(B) currently holds that, if a juror appears at court on day 1, but is dismissed and not required to return, they do not get the daily rate; they only get mileage. To avoid conflict and to be equitable, we need either to amend A.R.S. § 21-221(B) to require both the court (paying retired, unemployed, underpaid jurors) and the employer to pay the daily minimum for the first 3 days, or state that neither the court nor the employer are required to pay the daily minimum for service of a single day if A.R.S. § 21-221(B) applies.
 - We recommend A.R.S. § 21-221(B) be amended to include juror pay for the first day, even if the juror is dismissed. Whether it be the court (retired, unemployed, underpaid jurors) or the employer, juror pay will be four times the statutory minimum hourly wage. This will prevent the legislature from having frequently to amend the language regarding the daily rate's specific dollar amount.
- The \$15 Lengthy Trial Fund-associated filing fee should be increased to \$21. (Note: ARS 12-115(C) "The additional [LTF] fee may be deferred or waived pursuant to §§ 12-302 and 12-304.").

- The current minimum amount a person seeking reimbursement from the Lengthy Trial Fund receives (unemployed, retired persons) is \$40. We recommend that the minimum LTF amount be changed to four times the statutory minimum hourly wage so that it is consistent with our proposed amended language in A.R.S. § 21-221(B).
 - The group does not recommend any change to the maximum daily reimbursement under the Lengthy Trial Fund. The current \$300 daily rate equates to \$37.50 per hour and \$78,000 annually which is higher than the average income in Arizona.
- We recommend that Lengthy Trial Fund day of service eligibility be reduced to Day 4 from Day 6.
- We recommend that the Lengthy Trial Fund statute and code be retroactive to day 4 in situations where the employer is paying for days 1-3. However, LTF requests from retired, unemployed, and underpaid jurors should be retroactive to day 1 so that all jurors are on equal footing. We're proposing this to avoid a situation where the AOC is having to refund employers for days 1-3.

Additional notes in relation to these recommendations:

- Clerks nervous about funding for LTF.
- Could generate more work for the clerks and jury managers to have LTF reimbursement kick in at Day 4 versus Day 6.
- Potential for a portal that jurors could use to complete LTF reimbursement request and upload/submit pay stubs required to make court staff workload easier and more efficient if more requests are going to result from change to Day 4 start for LTF.
- \$30 per claim fee paid to courts for processing LTFs.

Issues Requiring Additional Discussion & Tabled

- LTF claims by persons who are paid by a S corporation vs. a C Corporation hurdle regarding difficulty of providing proof of lost income to support LTF request? **This was tabled as no one has the knowledge adequately to address this question.**